

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA  
FRESNO DIVISION

MARK DANIEL SWARTOUT,

Plaintiff,

v.

KILOLO KIJAKAZI,  
Acting Commissioner of Social Security,

Defendant.

No. 1:20-cv-01424-GSA

STIPULATION AND ORDER FOR THE  
AWARD AND PAYMENT OF ATTORNEY  
FEES AND EXPENSES PURSUANT TO THE  
EQUAL ACCESS TO JUSTICE ACT, 28 U.S.C. §  
2412(d), AND COSTS PURSUANT TO 28 U.S.C.  
§ 1920

(Doc. 32)

This stipulation is intended to replace the Motion for Attorney Fees Plaintiff filed on  
May 9, 2022.

IT IS HEREBY STIPULATED by and between the parties through their undersigned  
counsel, subject to the approval of the Court, that Plaintiff be awarded attorney fees and  
expenses in the amount \$6,650.00 (SIX THOUSAND SIX HUNDRED AND FIFTY dollars)  
under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d), and costs in the amount of  
\$400.00 (FOUR HUNDRED dollars) under 28 U.S.C. § 1920. This amount represents  
compensation for all legal services rendered on behalf of Plaintiff by counsel in connection with  
this civil action, in accordance with 28 U.S.C. §§ 1920; 2412(d).

After the Court issues an order for EAJA fees to Plaintiff, the government will consider  
the matter of Plaintiff's assignment of EAJA fees to counsel, if any. Pursuant to *Astrue v.*  
*Ratliff*, 560 U.S. 586, 598, 130 S.Ct. 2521, 177 L.Ed.2d 91 (2010), the ability to honor any  
assignment will depend on whether the fees are subject to any offset allowed under the United

1 States Department of the Treasury's Offset Program. After the order for EAJA fees is entered,  
2 the government will determine whether they are subject to any offset.

3 Fees shall be made payable to Plaintiff, but if the Department of the Treasury  
4 determines that Plaintiff does not owe a federal debt, then the government shall cause the  
5 payment of fees, expenses and costs to be made directly to counsel, **Olinsky Law Group**,  
6 pursuant to the assignment executed by Plaintiff. Any payments made shall be delivered to  
7 counsel, **Olinsky Law Group**.

8 This stipulation constitutes a compromise settlement of Plaintiff's request for EAJA  
9 attorney fees, and does not constitute an admission of liability on the part of Defendant under  
10 the EAJA or otherwise. Payment of the agreed amount shall constitute a complete release from,  
11 and bar to, any and all claims that Plaintiff and/or counsel including counsel's firm may have  
12 relating to EAJA attorney fees in connection with this action.

13  
14 This award is without prejudice to the rights of counsel and/or counsel's firm to seek  
15 Social Security Act attorney fees under 42 U.S.C. § 406(b), subject to the savings clause  
16 provisions of the EAJA.

17  
18 Respectfully submitted,

19  
20 DATE: May 17, 2022

/s/ Stuart Barasch  
21 STUART BARASCH  
22 Attorney for Plaintiff  
23 (as approved via email)

24 PHILLIP A. TALBERT  
United States Attorney

25 DATE: May 17, 2022

26 By s/ Jennifer A. Kenney  
JENNIFER A. KENNEY  
27 Special Assistant United States Attorney

28 Attorneys for Defendant

IT IS SO ORDERED.

Dated: May 17, 2022

/s/ Gary S. Austin

UNITED STATES MAGISTRATE JUDGE